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ORIGINAL

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room
ITC Building, Tamuning



Thursday, September 8, 2016
1:44 p.m. to 4:26 p.m.

GUAM LAND USE COMMISSION
Regular Meeting
Thursday, September 8, 2016
Department of Land Management Conference Room
3rd Floor ITC Building, Tamuning

MEMBERS PRESENT:

Mr. John Arroyo, Chairman

Mr. Victor Cruz, Vice Chairman

Ms. Conchita Bathan, Commissioner

Mr. Tae Oh, Commissioner

Mr. Michael Borja, Executive Secretary

Ms. Kristan Finney, Legal Counsel

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Penmer Gulac, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

**GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION
Attendance Sheet**

Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

Date of Meeting: Thursday, September 8, 2016

Time of Meeting: 1:44 PM

X	GLUC
X	Regular
	Special
✓	Quorum
	Non-Quorum

	GSPC
	Regular
	Special
	Quorum
	Non-Quorum

COMMISSION MEMBERS

John Z. Arroyo, Chairman
Conchita D. Bathan, Commissioner
Victor F. Cruz, Vice Chairman
Tae S. Oh, Commissioner
Vacant, Commissioner
Vacant, Commissioner

SIGNATURE

[Handwritten signatures of John Z. Arroyo, Conchita D. Bathan, Victor F. Cruz, and Tae S. Oh]

Michael J.B. Borja, Executive Secretary

Kristan K. Finney, Legal Counsel

Marvin Q. Aguilar, Chief Planner

Frank Taitano, Planner IV

Penmer Gulac, Planner IV

Celine Cruz, Planner IV

Jeffrey Baker, Planner II

M. Cristina Gutierrez, WPS II

[Handwritten signatures of Michael J.B. Borja, Kristan K. Finney, Marvin Q. Aguilar, Frank Taitano, Penmer Gulac, Celine Cruz, Jeffrey Baker, and M. Cristina Gutierrez]

ADJOURNMENT: 4:26 PM

**Location: Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning**

[illegible]

**Location: Department of Land Management Conference Room
590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning**

(THIS RECORD WILL BE USED IN THE TRANSCRIPTION OF THE GLUC/GSPC MINUTES. PLEASE PROVIDE YOUR FULL NAME AND WHO YOU REPRESENT, I.E., ITEM ON AGENDA.)

[illegible]

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room
Thursday, September 8, 2016 • 1:44 p.m. to 4:26 p.m.

I. Notation of Attendance

Chairman Arroyo called regular meeting of the Guam Land Use Commission to order for Thursday, September 8, 2016 at 1:44 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita "Chit" Bathán, Commissioner Tae Oh, Executive Secretary Michael Borja, Legal Counsel Kristan Finney, Guam Chief Planner Marvin Aguilar, Case Planner Penner Gulac and Recording Secretary Cristina Gutierrez

Chairman Arroyo the agenda you have in front of you is there any questions or does anybody want to make a change in the order of business? [No changes]

II. Approval of Minutes

Chairman Arroyo alright, so let's go ahead and move on with the first order of business which is the approval of the July 28th, 2016 meeting Minutes. I'll entertain a motion on the Minutes whenever you're ready.

Commissioner Bathán I would like to make a motion to approve the GLUC regular meeting Minutes of July 28, 2016 subject minor edits that will be submitted to Cris by end of business day today.

Chairman Arroyo thank you Commissioner Bathán. Do I have a second?

Commissioner Oh I'll second.

Chairman Arroyo seconded by Commissioner Oh; any discussion? [None] All in favor of the motion please say "aye" [**Chairman Arroyo, Vice Chair Cruz, Commissioners Bathán and Oh**], all opposed say "nay."

[Motion carries; passed unanimously, 4 ayes, 0 nay]

Chairman Arroyo on the August 11th, 2016 minutes.

Commissioner Bathán I'll make a motion to approve the August 11th, 2016 GLUC regular meeting Minutes subject to minor edits that will be submitted to Cris by the end of the day today.

Vice Chairman Cruz second.

Chairman Arroyo moved by Commissioner Bathen, seconded by Vice Chair Cruz. Any discussion? [None] All in favor of the motion say "aye" [**Chairman Arroyo, Vice Chair Cruz, Commissioners Bathen and Oh**], all opposed say "nay."

[Motion carries; passed unanimously, 4 ayes, 0 nay]

III. Old or Unfinished Business

Chairman Arroyo we have no old or unfinished business.

IV. New Business

Chairman Arroyo we don't have any new business; so, we'll move onto Item V on the agenda.

V. Administrative and/or Miscellaneous Matters

Conditional Use

- A. The Applicant, BME & Sons, Inc.; request to renew its previously approved Conditional Use permit to continue operation of its Temporary Workforce Housing Facility, on Lot 5223-R9-3, in the Municipality of Barrigada, in an "M-1" (Light Industrial) zone, under Application No. 1997-23D. Case Planner: Penmer Gulac

Chairman Arroyo for the record, we do have a letter addressed to me (Chairman) and the Commission members as well as the Executive Secretary; the subject is request for annual renewal of conditional use permit.

Marvin Aguilar (Chief Planner) would you like me to read it for the record.

Chairman Arroyo yes please.

[Mr. Aguilar reads correspondence received from BME & Sons, Inc. For full content/context, refer to Exhibit 1 – BME & Sons Inc. correspondence dated September 8, 2016]

Marvin Aguilar continued to read the staff report to include purpose, previous Commission action, discussion, and recommendation. [For full content/context please refer to Attachment A]

[Attachment A – Staff Report dated August 29, 2016.]

Chairman Arroyo any questions of staff? [None noted from the Commissioners] On the request after this approval any subsequent annual approvals be made by you. Is there anything prohibiting us from doing that in the regulations? Looking at it, it just says that all applicants need to come before the GLUC, and then it says after the initial 24-month approval it needs to

be approved annually. But, is there anything that would prohibit you from reviewing and approving annual renewals?

Marvin Aguilar well, I think the idea of sending their request for approval or consideration to me annually would be ultimately a report up to the Commission as opposed to the applicant coming in. So, I think the conduit between the applicant and the Commission itself I think that would suffice.

Kristan Finney (Legal Counsel) the section on the temporary workforce housing says renewals have to have a public hearing before the GLUC.

Chairman Arroyo they do need to have a public hearing, okay.

Vice Chairman Cruz but could that thing be brought up as part of the ...accept them when we have this meeting that they did report directly to the Planner; the Planner conducted everything pursuant to what the requirement and then just come back to us and ... because they do the something so just having it one time is that possible.

Kristan Finney what do you mean just one time?

Vice Chairman Cruz you know in otherwords if they come in and renew it for their renewal their request is that they need to seek support/approval by the Chief Planner thereby the Chief Planner just reporting to us and having that report on the agenda.

Kristan Finney they have to renew it annually, so they can't shortcut it.

Commissioner Bathan so the approval of the renewal will be on the hands of the GLUC not the Chief Planner.

Chairman Arroyo because of the public hearing requirement.

Marvin Aguilar ultimately, the intent was ultimately submitted before the Commission as my findings.

Penmer Gulac (Case Planner) initially the public hearing was already conducted. Every year they need to renew to the Commission is also a public hearing as well.

Chairman Arroyo we're trying to address their request to have the Chief Planner do the annual review/renewals so that they don't have to come before the GLUC.

Penmer Gulac we've had companies that have been going to the process after the two years.

Chairman Arroyo going through the process of having the Chief Planner do the review.

Penmer Gulac having the Chief Planner review and approve the annual renewal with all the reports submitted.

Chairman Arroyo temporary workforce housing?

Penmer Gulac yes.

Vice Chairman Cruz so, it's basically trying to say that once you approve it and there's no problem then to it and then you report to the Commission.

Marvin Aguilar it's not an approval on my side it's actually a forwarding of findings.

Chairman Arroyo we do have to have a public hearing. Whether or not the applicant chooses to be present that's up to them, but we do need to discuss it in a public hearing setting. Any other questions? [None noted]

Okay, so we'll ask the applicant to come on up and if you can state your name for the record.

Danny Natividad good afternoon Mr. Chairman, all the Commissioners and also for the Chief Planner. I am with BME & Sons and I am here to represent Mr. Bernie Maranan our President. And again we are requesting for your consideration for the renewal of our temporary housing facility in Barrigada.

Chairman Arroyo I have a couple of questions on the packet that was submitted. You have a copy of the packet. It's like on the page after the contractor's license; top of the page, it's supplemental information submittal. It indicates there's Exhibits A – justification with supplemental information and then there's an Exhibit E, F and G. I couldn't find that in here.

If you want to speak to these you are welcome to do that.

Danny Natividad on safety and security – the clearances required by H2-B applicants from their country of origin and the Guam Police Department remain unchanged. On site security continues to be provided the manager and two assistant managers at BME Village. The 6-foot high security fence and gate are in place. Additionally, BME & Sons continues to provide a thorough orientation for new workers, requires all tenants to sign an MOU regarding housing rules, conducts random drug tests and room inspections, and holds monthly meetings. Also, BME & Sons' Safety Manager (that's me) continues to conduct briefings regarding matters to the residents.

We're also conducting safety meetings every month, we're doing also some fire drills, and we have posted exit route for our workers in case of fire. And we newly installed a CCTV on the perimeter area so we know who's coming in and out of the barracks, and the gate is closed after 10:00 p.m.

Commissioner Oh a quick question. Are these exhibits part of the requirements for the workforce housing facility?

Commissioner Bathan it's mentioned in the Resolution.

Penmer Gulac it's part of the operation of the workers' facility; safety requirements, and others that are required for reporting. For example, if a worker gets sick so they have a contract with a medical doctor.

[Discussion ensues on the requirements needed for Temporary Workforce Housing Facilities]

Chairman Arroyo so, it would be required.

Penmer Gulac those were all addressed in the initial approval of the workers' facility. They are in satisfactory condition as of my site inspection.

Kristan Finney and those would have to be included on the renewals also and not just the initial.

Commissioner Bathan or a statement from them that says there's no change from the original submittal. Would that be sufficient because they did mention that there was no change.

Penmer Gulac there's no change. The barracks was not enlarged, no add-ons or upgrades. Sanitary permit was completed recently in June; dormitory permit was also issued by Public Health.

Chairman Arroyo any other questions?

Commissioner Bathan I have a question for the applicant. On the Notice of Action it says here that under miscellaneous you are approved for 114 temporary workers, but on your letter of September 8th, it shows that your total H-2B workers living in the barracks is 116. So, you are over two of the approved (114). Your dormitory permit also says 114. You have 43 workers expected to leave and you have 73 H-2B extensions a total of 116; maximum is 114. The reason why I mentioned it is because when they calculate the workers, the maximum numbers, they consider the number of spare (undecipherable) that is allowed. There is an overage. Do you really have 116 workers currently?

Danny Natividad I'm not really sure I have to find out if it's correct; but, our facility can house up to 130 workers.

Commissioner Bathan I know, I understand that but your approval is for 114. If you want to house 130 workers, you should come back and apply for the additional.

Penmer Gulac there are two buildings there on the site; the main barracks and then a smaller building. Right now the dormitory was issued for a 114. The rest of the ... normally, the management will house them in a residential accommodations off-site.

Vice Chairman Cruz within...so let me ask him. Are all your workers living in there or you have workers off-site?

Danny Natividad they're all living in there.

Penmer Gulac they're expecting to release some of the workers to go back home.

Commissioner Oh when do you expect the H-2B to leave, expected to leave.

Danny Natividad November 24.

Commissioner Oh I think the Chairman is ... his concern is that because in the submittal itself it does state supplemental information submittal and these are submittals. So, we were kind of expecting a submittal, but there's nothing attached when it comes to Exhibit E which is Safety and Security. Yes, there's some language here but there's no submittal. And then there's Exhibit F which is for the Facility Control Manager, and Exhibit G which is concerning religious services. I think that is the point that he's trying to make here because there are no submittals.

Penmer Gulac can he submit that as a condition of approval...for those attachments. Will it be acceptable if those documents ...

Chairman Arroyo I mean if he wants to discuss them in detail I don't think he necessarily needs to submit it in writing; but, if you're here and you're ready to address them we could listen to it.

Danny Natividad on Exhibit F we assigned two (2) workers to be the control manager at the barracks.

Chairman Arroyo let's start with Exhibit A, your justification for the continued renewal of the workforce housing facility. Can you explain to us why you need to continue, why you need to renew, and what are the reasons for that.

Danny Natividad the reason why we're continuing because we need temporary housing facility for our workers. So, if this will not be renewed we do not have any place to house our workers and it will hurt our company because right now we have ongoing projects.

Chairman Arroyo there's an ... I mean this is big on island with respect to foreign labor forces. In particular the H-2B labor force, in that there really hasn't been any renewals. As a matter of

fact, it's all outgoing and nothing coming in. You indicate that forty-three (43) are expected to leave in November, but you all indicate that ... is that sixty (60) expected to come back?

Danny Natividad yes, we are still waiting for the approval.

Chairman Arroyo okay, and then you have another seventy-three (73) expected for an extension?

Danny Natividad extension...we already filed for an extension.

Chairman Arroyo realistically in light of ... we've got somebody from CoreTech right here and they just went through a major upheaval. Realistically, what are your chances of having these extensions and these renewals approved?

Danny Natividad right now we don't know yet, but hopefully it will be approved soon.

Vice Chairman Cruz I guess Mr. Chair is that they're not the only one in that hope that everybody's just submitting their application and hope that something within the federal side can look and consider the island's needs and everything because not only is them, but you have big contracts that rely ... the federal government and people are afraid to bid I guess. People are afraid to sign on the contract if you know. So, everybody is just submitting everything as required by what is required. What comes out remains to be seen.

Chairman Arroyo I mean, from your perspective, aside from the hope is there anything to that you're doing to defend the importation of additional workers for your particular projects. I mean, are you doing anything different? Or do you plan to do anything different?

Commissioner Bathan has any of your applications been denied or approved so far by USCIS (U.S. Citizenship and Immigration Services)?

Danny Natividad yes, our renewal was already disapproved so we appealed. We filed an appeal to the USCIS and we're still waiting for the results.

Commissioner Bathan you're talking about the 73 workers extension?

Danny Natividad yes.

Chairman Arroyo the 43 that are expected and let's say you don't get the 73 extension and the 60 importation. How is that going to affect your ability to continue with the projects that you are working on now?

Danny Natividad right now we have local workforce which is of course, not really enough to complete the projects on time. So, we are hopeful that this will be approved, and Guam Contractors Association is doing their best to help all contractors on the island.

Chairman Arroyo well, for sure we don't want to hold that against you on renewing your....here's an opportunity for us to pick your brain because I think everybody else who has conditional use for temporary workforce housing probably will be in here with the same sort of situation that you're facing.

If you want to speak a little bit to the I think you did talk about the security and the safety. Do you have anything more on the Facility Control Manager.

Danny Natividad we assigned two employees to be the Control Manager for the barracks. They're in charge in assigning workers and doing inspection at the barracks, daily inspections if I'm not around because I'm doing inspections once a week. So, certain days they're doing the inspection and telling employees to clean their rooms and also the people that's going in and out of the barracks. So if they are not family members or visitor they question the people and call the office first if they're going to let them in or not.

Commissioner Oh do you have a curfew hour?

Danny Natividad yes, 10:00 p.m. We close the gate and nobody can go in.

Commissioner Oh so if they stay out after ten o'clock ... if they don't return by ten.

Danny Natividad they have to return by ten. Some of them go home at eight, but we close the gate at ten o'clock.

Commissioner Oh when you say go home you're talking about back to the dormitory by eight.

Danny Natividad yes.

Commissioner Bathan if they're not home by ten what happens to them?

Danny Natividad they have to call us because the gate is closed and they have to call us and we let the manager open the gate for them. But it happens very rare.

Commissioner Oh I have a quick question on the there's some mention about the Guam Police Department clearance. Do you guys do clearance on, you know, like police records....

Danny Natividad yes we have because on Base we're required to submit police clearance so we have to get police clearance for every single employee.

Vice Chairman Cruz it's required?

Danny Natividad yes, required.

Commissioner Oh are you aware of any records in particular from any of your workers?

Danny Natividad no.

Commissioner Bathan I have one more question. I'm looking at the site plan and I remember that you ...there's a kitchen within the barracks; but I didn't quite see that addressed in your justification, and it's part of the GLUC Resolution to submit a plan to include food service. So, are they cooking at the barracks? Are the workers are cooking by themselves?

Danny Natividad you mean the employees?

Commissioner Bathan yes.

Danny Natividad no.

Commissioner Bathan do you have a food service provider?

Danny Natividad yes we have. We hired three cooks to cook for them.

Chairman Arroyo any other questions? [None] I'll open the floor for public comments. Is there anyone who would like to make a comment regarding this application?

Public Comments [Seeing none, Chairman Arroyo closed public comment period.]

Chairman Arroyo anything else you want to say before we make a decision?

Danny Natividad I think that's about it.

Chairman Arroyo okay ... so, what's your pleasure.

Commissioner Oh I'd like to make a motion. Mr. Chairman, I move to approve the applicant's request for the renewal/continuation of the operation of a temporary workers' housing facility and further reporting annually on their status to the Guam Chief Planner with all Commission, ARC, workforce housing applicable conditions and GLUC Resolution No. 2009-01 is still applicable and in force.

Chairman Arroyo there's a motion, do I have a second.

Vice Chairman Cruz I second.

Chairman Arroyo motion by Commissioner Oh, second by the Vice Chair; any discussion? No discussion.

On the motion, all in favor say "aye" [**Chairman Arroyo, Vice Chairman Cruz, Commissioners Oh and Bathan**], all opposed say "nay."

Motion is approved. Just make you get it down to 114 or come back to us.

[Motion was passed unanimously; 4 ayes, 0 nay]

Conditional Use/Renewal

- B. The Applicants, Chang Ki Bang and Otilia F. Bang; request to renew a previously approved conditional use permit for the continued operation of a mom and pop retail store located on the first floor of an existing two-storey duplex, and the 2nd floor used as the applicants' residence, on Lot 3-4, Tract 1033, in an "A" (Rural) zone, in the Municipality of Dededo, under Application No. 2010-15D.
Case Planner: Penmer Gulac

Penmer Gulac reads supplemental report to include purpose, facts, previous Commission action, discussion and recommendation. [For full content/context, please see Attachment B.]

[Attachment B – Supplemental Staff Report dated August 29, 2016]

Chairman Arroyo any questions?

Commissioner Oh I have a quick question. Considering the fact that we had a Resolution approved recently for limited commercial does the applicant ... I mean, let's say we were to move rezone to "LC" limited commercial. Would the applicant need to submit another application or

Marvin Aguilar no sir. It's a whole different authority with respect to public input, assessing his property with respect to the surrounding community and so forth.

Commissioner Oh because on the recommendation there's a ... it's recommended that this conditional use be made permanent. Other than that I think a better solution might be to just go to limited commercial.

Marvin Aguilar that could be done.

Vice Chairman Cruz how would we do that.

Marvin Aguilar it's not ... using the AG's phrase there's no way to fast track it. You really have to go through the change of zone. Limited commercial is still a different zone from its current zone as "A" so you would have to go through that process. I think it's under 61639.

Vice Chairman Cruz so if ... I mean they're asking that we just approve it and leave it as it is. But, we're trying to assist them to become a more legal conforming then legal non-conforming so that and everything. So, how would we ... recommend to the applicant ... how much timeframe do you

Michael Borja (Executive Secretary) I would just suggest probably continue with another two-year approval and with the recommendation that they process to get a limited commercial rezoning.

Vice Chairman Cruz alright, maybe we can extend it to the applicant.

Chairman Arroyo any other questions for staff? [None noted] We'll ask the applicant to come up. Please state your name for the record.

Chang Bang (with Otilia Bang, wife)

Vice Chairman Cruz Mr. Bang

Chairman Arroyo first, do you want to say anything first before we ask questions or

Chang Bang this one two year, two year already two times extension and then the last time they told me to one more time and they going to do permanent and then we waiting to

Vice Chairman Cruz Mr. and Mrs. Bang, you're requesting that we just give you a permanent on this one. We as the members we have ... we want to offer you a recommendation in otherwords and by the time with this recommendation if you do follow the recommendation that would be almost sure your final time to come over. There is a provision that would allow us to allow you to apply ... we will give you a condition on this one, but we want you to come back and apply under a term called limited commercial. And what limited commercial means Mr. and Mrs. Bang is whatever you got that's operating there, your mom and pop store, we will allow you to continue to operate, change it to limited commercial so that you basically become legal. Do you understand what we were trying to say?

Chang Bang yeah, but how many years.

Vice Chairman Cruz no, the question is if we give you this how soon can you apply for limited commercial. The samething but instead of this ... what you're asking you will request for limited commercial. It's a zone change to change it from what you got to limited commercial.

Commissioner Oh so it becomes permanent and you don't have to come back after getting limited commercial.

Chang Bang okay, whatever we listen to.

Vice Chairman Cruz no, you tell us. We can give you one year, we can give you two years. How long before you come back.

Chang Bang no, before the last time they tell me that together six people say to next time come in we make permanent. Now two year we do they promise that's way I come to now. (sic)

Vice Chairman Cruz what we're trying to do is we're trying to help you so this one more time and then forever permanent.

Chang Bang we need to apply separate to commercial we try.

Vice Chairman Cruz one time and then finish.

Chang Bang okay, whatever I listen to.

Vice Chairman Cruz so it's up to you. How long it would take you to apply.

Otilia Bang we'll do it as soon as possible.

Chairman Arroyo Penmer, can you work with them?

Penmer Gulac yes we can sir.

Vice Chairman Cruz so, how long should we give them the

Penmer Gulac two years so they can start working on their application for limited commercial.

Chairman Arroyo or anytime between that time.

Commissioner Oh or they can submit earlier than that.

Vice Chairman Cruz Mrs. Bang, you understand what we're trying to say.

Otilia Bang yes, I understand.

(Vice Chairman Cruz explains the process to Mrs. Bang in Chamorro. Translation – the Commission will consider approving your request for another two years; in the meantime, applicants need to gather the necessary documents and submit to Land

Management for the rezoning of their property to limited commercial on or before the expiration of the two-years for the Guam Land Use Commission's consideration.)

[Translation provided by Planner IV Celine Cruz, Planning Division]

Otilia Bang we will go ahead and apply. Thank you.

Chairman Arroyo any other questions. [None noted] At this time, I will open the floor to public comments. If anybody has anything they would like to say regarding this application please come forward.

Public Comments [Seeing none, Chairman Arroyo closed the public comment period]

Chairman Arroyo on the request, do I have a motion ---

Commissioner Oh I'll go ahead and make a motion.

Chairman, I would like to make a motion to renew a previously approved conditional use permit for the continued operation of a mom and pop retail store located on the first floor located on the first floor of an existing two-storey duplex, and 2nd floor used as the applicants' residence, on Lot 3-4, Tract 1033, in an "A" (Rural) zone, in the municipality of Dededo, under Application 2010-15D; with the condition to return back to the Commission within the two-year term, subject to conditions noted in the original approval.

Chairman Arroyo I have a motion by Commissioner Oh. Do I have a second?

Commissioner Bathan I'll second.

Chairman Arroyo second by Commission Bathan. Any discussion on the motion? [None noted]

Okay, so on the motion say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Oh and Bathan], all oppose say "nay." Okay, so the motion is approved. So, we'll see you in two years or less. Please work with Penmer.

Otilia Bang okay, thank you very much.

Chairman Arroyo before we get to the last item on the agenda, can we take a ten-minute recess; so, we'll be back in ten minutes.

[Commission recessed at 2:38 p.m. and reconvened at 2:48 p.m.]

Chairman Arroyo let's go ahead and reconvene. The next item on the agenda ---

Planned Unit Development

- C. The Applicant, Wonderful Resorts LLC (dba: Wonderful Windward Hills Resort); requests clarification and approval on multi-family use within a previously approved Planned Unit Development (PUD) for the purpose of constructing ~~200~~ 220 townhomes, on Lot 154-2, -3 & -4, in the Municipality of Yona.

Case Planner: Marvin Aguilar

Chairman Arroyo this is 200. I thought we were only looking at 12-units?

Marvin Aguilar the final design is looking at 200; but that will be beyond Phase I, and hopefully the applicant can better explain that. But before we continue, apparently there was a slight mistake on the identification of the subject lot. The mother lots, 154-2, 154-3 and 154-4 they currently don't exist right now. They've all been subject to further subdivision or consolidation. The subject lot that is in question right now is Lot 154-2 (mother lot) -4-REM-NEW-2REM. Again, this is a ... if you would allow me, a child of the mother lot of Lot 152 (sic); and therefore, the rezoning PUD applies to this new lot as well.

I don't if you can see this. This is the lot over here (displayed on the monitor). These bold lines consists of where the property line is and within it there are the residential subdivisions that occur throughout. And what's not showing here because it's on a different page you'll see that they'll discuss the separation of each of these different lots from Lot 152-2 (sic). What's not showing here is actually the golf course. So, if you're familiar with the old Windward Hills Golf Course you'll see that it actually occurs on these open areas.

So the subject lot once again for the record is Lot 152-2-4-REM-NEW-R2 (sic).

Vice Chairman Cruz within that where's this going to be.

Marvin Aguilar it's supposed to go right here, the twelve units right here (refers to the monitor). And again, hopefully the applicant can expound on that.

Chairman Arroyo for the record, we received this supplemental submission; the Wonderful Windward Hills Golf Resort, it's addressed to the Land Use Commission dated September 8th. It's a series of what looks to be presentation printouts, Minutes of the June 22nd, 1972 meeting where the PUD was originally approved; copy of the map and then some site drawings and then a civil design calculation sheet for Phase I. [For full content/context, please refer to Exhibit 2]

Marvin, do you want to go ahead with the presentation.

Marvin Aguilar I would like to also point out that we just received this today, the support documents indicate Phase I, II, III and IV. (Continues to read the staff report to include the

purpose, facts, discussion, GLUC's role, and conclusion. [For full content/context, refer to Attachment C.]

[Attachment C – Staff Report dated September 8, 2016]

Marvin Aguilar it's important to note that the rezoning that was approved and signed by the Honorable Carlos Camacho, July 28th, 1972; so, it bonafides (sic) the rezoning.

Chairman Arroyo so, what we're dealing here with is an approved PUD (Mr. Aguilar responds "yes sir.") which was approved back in 1972. The issue here is that part of the approval process....the application needs to include a plan, a development plan. And I think the challenge that we have here is that we cannot find a copy of the plan in any of our records, and I don't believe the applicant has a copy of a plan that was approved by the previous owners of the property.

Marvin Aguilar so in essence, there was research on both houses, and we couldn't find anything.

Chairman Arroyo the requirement ... 61635, was that in affect back in 1972?

Marvin Aguilar yes sir it was. This Zoning Code was back in the 1950s.

Chairman Arroyo the Commission at the time would have had to be held to the requirements of this 61635.

Marvin Aguilar yes.

Chairman Arroyo any questions.

Commissioner Bathen actually I have a question. The PUD that was approved included the airfield and light industrial use that was already ... that was abandoned, the land use was abandoned in the mid-nineteen eighties. What happens to the portion of that property that was designated to be an airfield?

Marvin Aguilar it just remains.

Commissioner Bathen so, they cannot use it for any other purpose.

Marvin Aguilar well, they should come in for an amendment to an approved master plan. But there again, you're faced with the same challenges that you don't have anything. What I've done is I've attached an Exhibit C which is ... oddly, I discovered in another document. And it does show condominium development, there's actually a quality Royale Hotel that was proposed on

the lot; but, we really don't have anything to substantiate its relationship or association with the....

Chairman Arroyo as part of this submittal here, the one that we got today; on the last few pages there's a site plan and it's detailing the different phases, and I'm assuming that in the absence of a plan that this is what they're planning to do now?

Marvin Aguilar I would have to defer that to the applicant. Again, we just received this this afternoon.

Chairman Arroyo if we were to look at this Exhibit C, I just want to see if

Marvin Aguilar it's in line with it ... so Lot R2B condo and then Lot R2C condo; they're in the general if not within that specific area that is designated for R-2.

[Discussion ensues amongst the Commissioners on the location of the phases for this project.]

Chairman Arroyo we do have a former member of the Commission back in 1972 here, Mr. Carl Peterson. If you don't mind coming forward and helping us out on this we'd appreciate it.

I guess what we're looking at is we apparently don't have a plan on how this property was going to be developed under the PUD. And so their requesting us to approve this 200-unit development but we don't have anything to base that approval on. And if you remember back when this was initially approved, I don't know if you've seen any of the, oh you have a copy of it. Does any of that look familiar to you?

Carl Peterson I don't remember the specifics of the actual layout. I just remember that it was a long-term plan. The idea was to develop it in phases. It was a long-term plan, and the primary person that was explaining it all to us was Attorney Ed Crane. Ed Crane lived at Windward Hills. His house was there and so he was explaining how he envisioned it to supplement the development that was already there. And so, Ed Crane (I don't know if you know him) but of course all of these guys are gone except one, besides me; Frank Perez from Topsy's is still alive. But, Ed and his wife were very strong members at Windward Hills. At that time, that was the only golf course, and so it was a development on the golf course and they wanted to perpetuate that development in orderly fashion. And so, the easiest way to do that was to create a PUD where the agencies have a lot of control, and there's discipline in the process so that it will be an orderly development. And plus it leaves a lot of open space. So the idea was to make quality housing, but a lot of open space and make it complement the existing. But, I can't swear that this is the exact layout or if it I don't remember that that was forty-four years ago.

Chairman Arroyo right, right. A lot has changed and there's some housing developments out there. Do you recall if any of what's existing there now was part of what was presented to the TPC back then?

Carl Peterson I don't know if it was part of that project, of the PUD you mean?

Chairman Arroyo right.

Carl Peterson I'm not sure. There has been a lot of houses built there after this was approved in the eighties, late seventies and there's a lot ... a number of houses that were built there, quality houses too. But, I can't say it was part of this project. You know, ten, eleven, twelve, by the thirteenth hole there's a lot of there was nothing there. Now there's a number of houses in that area.

Vice Chairman Cruz you served with my father at that time, Francisco Cruz. That's how I got to learn about zoning and everything.

Carl Peterson right, that's right, exactly, and he always attended the meetings. This is a committee requires diligence and so not everybody is willing to put forth voluntarily diligence. So, it's an effort and your dad was good at it and so were the other guys. I spent twenty-two years on the Commission.

Chairman Arroyo that's a long time.

Vice Chairman Cruz you know who else was involved in this. It was Dan Swavely was your planner.

Carl Peterson yes at one time, yes, Dan Swavely was a planner. And of course he went off with their group to form their engineering company.

Chairman Arroyo does anybody...any other members have any questions for Mr. Peterson while he is here? [None noted from the Commissioners] Did you come in just for this or were there

Carl Peterson the staff even visited me at the office and said, do you remember this? When this comes up could you come to the meeting, and I said sure I'd be happy to. A lot of your heart stays even if you're gone. A lot of contentious issues; it's never easy and the idea was to how do we have some assemblance of orderly development because we're going to have build. We're going to have to build for the future. One hundred years from now, there's going to be a requirement for a lot of housing and that's the nature of it. But, how do we do it so that we ... and there's always a trade off of well, we don't infrastructure. We don't have power, sewer, water, but we don't have nothing because there's nothing there. In our day, when somebody had a big project there were these different issues, and so we would give the applicant the

opportunity to try to do this but you have to meet these conditions before you get an occupancy. Whether it was sewer, water, power or wetlands or whatever it was we tried to be diligent in, okay, because you can solve those problems it's only a matter of money. But some projects it's a lot of money. At the sametime, there is a way to solve the problems. It just takes a lot of people working together holding hands.

Chairman Arroyo exactly. Thank you Carl, appreciate you coming in. Okay, if there aren't anymore questions of the staff, we'll invite the applicant to come up. Please state your name for the record.

Richard Sana good afternoon Mr. Chairman, Commissioners, Secretary Borja, and Planning Staff. My name is Richard Sana. I'm here on behalf of Wonderful World Golf LLC and with me is with David Su one of the proprietors of the company.

We did submit a synopsis of the events leading up the zone change and where we're at now. That was addressed to Secretary Borja; I think staff may have reviewed that. Yes, I did look for Mr. Carl Peterson because I knew he was one of the Commissioners in those days including Mr. Cruz's father. We tried to ask him to recollect anything that was here, a master plan, did he see this master plan or was there any ... because we couldn't find any ... like Marvin said, we went through all the records trying to find the link to where this is at. We know that it was approved in 1972, in June 22nd and subsequent to that it was signed and approved by the Governor and through a zoning map amendment. So it is there. It is a PUD. And back then a PUD, as I remember it, had to have a substantial size lot and the minimum is 5 acres at minimum. And a PUD is not only a mixed use development it could be a combination of single family, multi-family, commercial, whatever, whatever the applicant submits. And I know that they are supposed to be self-sustaining and self-efficient type of development where it is the developer that would make it happen. They would have to spend the money to make it happen. I know also there is a criteria in developing this where the building coverage should be no more than thirty (30) percent and should have seventy (70) percent open space. An open space also includes the walls, sidewalks and those things. Because normally would say those are structures, but the Zoning Law was specific in those areas in describing that those would be considered as open space. And normally it would be the developers duty and responsibility to make this happen with the infrastructure; water, sewer, power.

There's a correction I want to make. The agenda says 200-units that they want to propose. It's actually 220; but for now, they want to build the Phase I which is a twelve unit, six duplex building which is right off the fairway of hole number one. And we know that ... the mystery of it is there is no master plan. Back then it wasn't a detailed master plan that the Commissioners would review it would be a conceptual master plan. They would layout everything they wanted to propose on it and submit it to the Commission with all the different types of mixed uses. But in the Minutes that's before you, the Commissioner's approved the zone change and the Planning Staff recommended approval subject to the applicant submitting the density for the multi-family dwelling uses that they are proposing and also some conditions on the (I guess) looking at the

specifics of the commercial use and it must have involved the clubhouse and the commercial use of the golf course.

So, we're here to seek your guidance and how the applicant can move forward in developing that they have proposed. And you know that the other phases ... they want to do the 12-units, 6 buildings first. The other phases I think will be contingent on how they are going to be able to support that development with some infrastructure, and Mr. Su is here and he can answer that. We were supposed to have some other technical people here but I guess they didn't make it.

Chairman Arroyo Mr. Su, do you want to address those now or

David Su we've been trying to kick start this Wonderful project, but we exhaust time and effort trying to locate the master plan. So, right now what we are asking is we could build the 12-units, and for the master plan we are willing to come back later on with a more detailed master plan for Commission to ... recorded ... as mention of record. But right now, the six buildings should be in line for the intent and is way below the 30 percent maximum coverage. I think it is less than one percent. So, we want to test the market. We know that the water pressure is low there we don't want to build too much. We know that the Agat sewer waste water treatment plant is be upgraded right now. We are the developer we do not intend to sell these units. Of course, we don't want to build any building that there's no water or sewer to support. We have to work with GWA and also EPA; for these twelve units it should be no problem. And also we are more than happy to work with the neighbors, even consider effort to (undecipherable) how to increase the water pressure of there. Currently, the clubhouse has good water pressure. I think some residents the water pressure might be low. So, we would like to come up with some solution with GWA so we can take care of that challenge.

Chairman Arroyo Richard, going back. Are you asking us to approve 200 or 220 units?

Richard Sana well, to approve the 220 but for now like Mr. Su had mentioned we can only do the twelve units, six buildings because the lack of infrastructure to support the rest of the development. And then we will come in at a later date and submit a master plan, a detailed master plan for the remainder of the phases, the project.

Chairman Arroyo let me just make sure; 220 ---

Richard Sana yes, is the actual number including the twelve.

Chairman Arroyo any questions?

Commissioner Bathen they're asking approval for the 220 not the 12?

Chairman Arroyo the 220, yes that's what they're asking for.

Commissioner Bathan not for the 12?

David Su we're asking for twelve for now, not the 220.

Chairman Arroyo oh, not 220 because this says

David Su for the future the total is 220, but today only 12.

Commissioner Bathan so, 220 is the total for Phase I?

David Su no, for all the four phases.

Richard Sana Phase I is just for the 12 units.

Commissioner Oh so, let me understand this a little better. Initially, your plans are to build and then you mentioned about testing out the market. Your intentions are to sell.

David Su no, we do not intend to sell.

Commissioner Oh your intentions are to ---

David Su to rent; to locals, the military or the golfers like Leo Palace. They'll come here for golf vacation and then they'll stay there for three days. At this point, we do not intend to sell any of the two hundred.

Commissioner Oh oh, so it would be long term rental or short term rental.

David Su long term and short term.

Commissioner Oh long term and short term. Short term meaning like three days, four days?

David Su yes.

Commissioner Oh so let's say it doesn't really, the economics really doesn't work out. What's your plan for moving forward after that?

David Su that's why we're only testing the twelve.

Commissioner Oh that's what I'm saying. You test out the twelve and then let's say economics doesn't work. What is your intention of the remainder of the phases?

David Su we will put it on hold.

Richard Sana or sell it ---

David Su remaining of the phases?

Richard Sana I think what he's saying is once you built (sic) let's say the two hundred plus

Commissioner Oh no, what I'm saying is once he builds the twelve, he's asking for twelve and let's say the economics doesn't work out what's his intention with the remainder of the phases; remainder of Phase II, Phase III, Phase IV which is another 208.

David Su of course if economy doesn't support it then we will not build it.

Commissioner Oh so at that point there is no master plan to be submitted.

David Su no, no, no, we will submit a master plan right away.

Chairman Arroyo okay, any questions? [None] The site plan you have here. They're close to the end of it. Is this basically what you're planning on submitting as a detailed

Richard Sana yes.

Chairman Arroyo and what was this based on? Is this just a new concept or were you working with ... I know you said you couldn't find anything. The Chief Planner found this in some of the old records. I think Marvin you said this was in relation to a sign variance?

Marvin Aguilar it was in a sign variance application.

Chairman Arroyo back in the 80's?

Marvin Aguilar back in 1985.

Chairman Arroyo are you familiar with any of that? [Mr. Su responds, "I've never seen it."] Because it does have some ... it wasn't attached to anything except for the submission of a sign variance for a tournament.

Marvin Aguilar and actually the golf course apparently once called Toyota Country Club.

Richard Sana actually it looks very similar to the one, that layout that's attached to this thing.

Carl Peterson the lower right hand corner I remember the hotel being the last part that they were going to build if they were successful as they went along then it would need a hotel and then they were going to build a hotel. I remember seeing a design of the hotel; right now it's just

a section where it says the name of the hotel that's all, but no design. But the original one did have a hotel.

Vice Chairman Cruz the issue about the density because you said you were going to phase and up to 220 units that you're looking for and with the land here. Can you come back to us and tell us how much land area is the golf course itself because that's a big chunk of land to add on to your density.

Richard Sana we actually calculated it but the technical guy did not show up today, and I think it was less than two percent (2%) what is being proposed.

Vice Chairman Cruz no, no your 12-units?

Richard Sana no, I'm talking about the 220.

Vice Chairman Cruz is less than what?

Richard Sana less than two percent of the total lot area. Remember back then it was thirty percent (30%) is based on footprint, based on building coverage not based on number of units to build.

Commissioner Oh but that two percent figure is that based on lot size right?

Richard Sana no, it's based on building coverage; footprint.

Commissioner Oh building footprint compared to the entire land. So, my next question is entire lot what are you considering part of that entire lot.

David Su entire golf course.

Commissioner Oh but I thought ... I was under the impression that there's no ... the relationship has been severed by the golf course. Am I understanding this?

David Su yes. The existing homes, there are forty homes on the golf course those are separated from the golf course.

Commissioner Oh the existing homes have been severed the golf course?

David Su yes.

Richard Sana you're talking about those lots up there --- we are not including the lots that have been occupied by those homes that have already been built.

David Su (asks to approach the monitor to point out the homes that were sold and separated from the golf course.) So, right now the PUD the total of about 7.3 meter square foot it's remaining golf course, and each unit is about 800 square feet and multiply that by 200 it's still less than 200,000 square feet; so, less than 3% of our total lot.

Commissioner Oh understood. I'm trying to understand what constitutes ownership of this property. Everything there except for the existing houses.

David Su yes.

Commissioner Oh okay, understood. So, this proposed development is on the same lot as the golf course?

David Su it's in the golf course.

Commissioner Oh this owner currently is the owner of the golf course.

David Su correct. That's why we do not plan to sell; we're not subdividing the lots. We don't plan to sell the lots we'll just go ahead and rent it by the golf house.

Michael Borja (Executive Secretary) so all the units are owned by Wonderful Resorts.

David Su yes.

Commissioner Bathan I have a question. Those individual lots that were already built homes and subdivided were they part of the original PUD? Or no?

Marvin Aguilar all we can say that they were in existence for decades.

Commissioner Bathan before the PUD was approved.

Marvin Aguilar Mr. Peterson mentioned something about ---

Carl Peterson many of those houses were not built. In 1972, there were only a few houses out there. Mr. Crane was living there and he's along Hole 3. The house, when they sell those houses they get it fee simple so each house gets its own fee simple lot. And so it is separate from the golf course. And if the coverage is two percent that means two percent of the acreage or the square meters that are left including the golf course. So, if you separate out the golf course; say for instance that they sold the golf course only, then you (undecipherable) percentage of the land that remains that's part of this PUD you want to present that to be open space. And generally speaking it only covers thirty percent of the land in a PUD.

Vice Chairman Cruz you're coming up with three phases? [Mr. Su responds "four."] Now, you're coming out to allow you to build six units to make twelve, and you got this in phases. When you present your plan to the Guam Waterworks Authority are you going to present it as 220 units or just that 12 units?

Richard Sana just the 12 units.

Vice Chairman Cruz the reason why I'm asking is you build these twelve unit you're going to build it on septic tank and leaching field (sic). So, you're going to the next one and build another twelve, and you're going to build it and then you're going to have 220 septic tanks.

David Su no. We tell EPA for the first one we can actually cannot to the sewer.

Vice Chairman Cruz are you going to connect or are you going to build.

David Su we're going to connect.

Vice Chairman Cruz where are you going to connect to what sewer.

David Su on Route 17.

Vice Chairman Cruz there's no sewer on Route 17. There was no sewer on Route 17....the only sewer that's there is Baza Garden and Windward Hills Estate and it connects to Talofofo village. That's the only sewer that's built there and that sewer was built by the developer of Baza Garden. So from therethat's why I'm asking, are you going to present your plan in four stages, 220. Because they way you're me you're going to try twelve and then you're going to try another twelve then you got until you get to 220.

David Su Phase I is 12, Phase II is about 60 to 70. We will seek at the time the building permit approval from the GWA at that time.

Vice Chairman Cruz so most likely you're going to have to build your own wastewater system.

David Su for the first six ---

Vice Chairman Cruz no, no for your entire building because there's no sewer on Route 17! The houses surrounding everything to include where the school is and all those surrounding when you go into Talofofo by the golf course there are no sewers there. They connect, the only way you're going to connect is to connect to Baza Gardenand that means you're going to run the sewer yourself. So, my question are you going to submit by phases or are you going to give Guam Waterworks say I've got four phase I want to build it this way.

David Su we will submit in phases. We will submit for building permit in phases.

Commissioner Oh I'm assuming you guys are here for some type of direction on this. This is just my own opinion; I don't know how the Commission members feel about it because of what was kind of proposed. It seems that this is the proposed master plan, in my opinion, it seems like it. And I think I feel a lot more comfortable knowing what the intentions are and coming up with an actual proposed master plan prior to ... because if your intentions are to build about 220 here that is what the intention of a master plan is for. So, I would feel a lot more comfortable knowing that the master plan states that there are intentions to build 220. Later on, you know, you could always build 12, understood. Yes, you could come up with a master plan and come up with phases based on the master plan and build 12. And if it really does work out, then you guys could indeed move forward with other phases or if you guys need to make changes to the master plan then at that point that has to be presented back to us and make revisions to it. I would feel a lot more comfortable going in that route just because the intentions are already there.

Chairman Arroyo I agree. It's been 44 years since this PUD was approved. It is approved, it is an approved project. But during that time so much has changed, and we don't know if the changes were part of the plan. So, we're at this phase now where 44 years later you really want to develop it, and we're all in favor of that. The thing is that the PUD requires, as Commissioner Oh said, a master plan. And I think this is a perfect point in time to kind of reboot. We don't know what was originally approved back then, but we do know what the current owner wants to do with it going forward. And so rather than saying okay let's do this 12 units first then we'll come back with a master plan; why don't we come up with a master plan first and then move forward with the first phase of the development.

Commissioner Bathan that's a better idea rather than approving piece-meal.

Commissioner Oh there is no master plan in place. This is, I think, the perfect time to ---

Richard Sana here's the thing with ... a PUD is a zoning designation when this thing was approved. It was a zoning designation. It's like zones that are designated "A", "R1", "R1" and within those zoning designations, they are building criteria and standards they have to follow which is the setback, height limitations, all of those things. In a PUD, it also has its own criteria. It has the ... it's not based on density it's based on intensity based on the footprint. As long ... I think in an approved PUD if there was a master plan, I mean approving the uses as part of that designated zone, all they have to do is get a building permit if it was approved. And they would have to just, as long as they don't exceed the height limitation that dictates the building standards and the lot area standards because it's already approved. The concept has already been approved. I remember back then it wasn't a detail master plan that was accepted it was a conceptual master plan, and Mr. Peterson can attest to that. And like Mr. Peterson said, back then all they had to do was if they had issues you know some hardship they come back to the Commission and submit another amendment if they had to.

Commissioner Bathan but we don't have a master plan.

Richard Sana but it was a zoning designation.

Chairman Arroyo Richard, but the thing is, yes it was a zoning designation, but it's a planned development. And so the uses have to complement each other and that's what the master plan is supposed to expose. It's supposed to provide to the Commission that the uses are not going to be competing against each other, that you're going to have a uniformed community. But at this point and time, we don't know if there is one other than you saying this is what we want to do, it's all going to be houses together with the golf course and then the clubhouse. We'd like to get that, like I said, rebooted, and say okay this is your plan it looks to us that it's a comprehensive, unified plan that the uses complement each other. Let's go ahead and say, okay so moving forward this is an approved PUD, but this now is the master plan and then you could move forward with your construction.

Richard Sana the only thing is that I think Mr. Su's intent right now....we know that we have to submit the total master plan to include all the other units, but I think his intention here is to build the 12 units like he mentioned earlier was to use as a model home to advertise the units and test the market. If the Commission will look at that as an isolated from the layout of the other 200 plus units, I think this is where ... why he's here today.

Chairman Arroyo I understand the motivation in the need to do that. The problem is we can't put the cart before the horse.

Richard Sana and I know, like I mentioned earlier, infrastructure is contingent upon the project getting to succeed to be built. Like any other project, if you cannot meet Guam Waterworks, if you can't meet GPA and then the project will not get built.

Chairman Arroyo and that will be vetted in your permitting process.

Vice Chairman Cruz because when you submit your 12-unit (sic) you're only going to be required to provide water for those 12-unit (sic). You're not saying we have 220 units to build tell us what 220 unit ----

Richard Sana the Commission can say this is only for the 12-units and not to include the ... like I said, wanted to be an isolated request.

Chairman Arroyo I think that if you continue to work with the site layout that you have there, and if this is what your intention is then you complete it and bring it back to us and we'll say, in absence of any documentation that was submitted or approved in 1972 we'll bless this is the master plan moving forward.

Commissioner Oh there are currently no master plan in place for the planned unit development. And asking us to approve 12-units without a master plan especially in a PUD zone I think we would feel a bit uncomfortable with that. And the master plan can always

change. And at the sametime, if you guys have certain type of master plan in place I don't think the owner really needs to go in and apply for all 220 at once. He could always piece-meal it. He could always have his 12 units at (undecipherable) if that's his intention. But, without an existing master plan in place asking for an approval of 12 units especially in a PUD zone which does require a master plan and they're not in place, none on record, there's none on file. It would be a bit difficult.

Richard Sana and I think that's the what's troubling the applicant right now is that we know it's a PUD. We know it was a legal PUD because it was signed and registered it went through the adjudication process.

Commissioner Oh we don't argue that it is a PUD. It's just we don't have a master plan. There is no argument about the fact that it is a PUD.

Richard Sana but I'm sure that the TPC back then were able to review something in order for them to approve a PUD. There has to be something submitted.

Commissioner Oh there's nothing. If you guys are willing to find it ... if we could find something then

Chairman Arroyo you don't even need to be here.

Vice Chairman Cruz it's almost like a out of the blue they're going to build this hotel/marina in Agat. And then they came back and said it was pre-approved back in eighties, sixties something or whatever. It's almost like that developer is going to come in and he says, back then I was allowed run only a two-inch line. Then he's going to argue that no that's what was approved. That's what you're almost telling us.

Chairman Arroyo if there aren't anymore questions I will open it up for public comments. Commissioners, do you have anymore comments? [None noted] If you could just state your name for the record.

Public Comments

Frank Ishizaki I live in Windward Hills. I am about 40 homeowners; and I love the concept, I love the concept. But, it scares me at the sametime. And I can't speak for my other 39 or 40 other owners, I'm only speaking for Ishizaki. And I do worry because basic infrastructure is great and there's never been a master plan that I'm aware of and we love the golf course. We're worried about many things. Certainly overcrowding, over taxing infrastructure, the water is inadequate. You know, Guam Waterworks went up to my house to fix a couple leaks already, and they are, I think they are two-inch pipes and the water pressure was very weak when we got there. Most of us have water tanks and booster pumps and we all have septic tanks, and that's a basic thing. In front of my house is a fire hydrant there's no water in it. So, do you

follow...this concept of planned development I think is vitally important. And I think the standards of 1972 are probably a little different from 2016. Like whatever we used to get away with, I think that's changed. I love the development idea and I welcome it. But, let's be intelligent. Let's be smart about it. I appreciate the comments that the Commissioners and the Chair brought because these are the questions we have. And I'm sorry that Sam left because he had some questions as well. But, I have a list I'd like to run-off and I'll make it quick because I know you all gotta get home.

I mentioned the fire hydrant problem; we have the equipment for fire hydrants, but none of them are functional. The roadway is inadequate, we have skinny roads and the traffic in our neighborhood is fine because we've only got 40 homes, maybe 80 cars. If we go to 200 homes I suspect we're going to have 400 cars because nobody just has one car. And that's just my...and each home is probably going to have 3 people in it. So, the water capacity, the wastewater; I'm not worried about solid waste and I'm not worried about power because that is easily adjusted in a high voltage line just put up more transformers you can do that. Solid waste is not a problem, but I think handling wastewater is a problem; the water capacity is a problem. And I think the current infrastructure has to be done to accommodate more residents. And the roadway if you put up that many more homes and cars then that intersection is going to be congested and that may require putting a traffic light. Just some thoughts. And the other thoughts we have is the, there's a wetland in the middle and I'm not sure if Mr. Su has consulted with the Army Corps of Engineers or not.

Richard Sana we had a wetland delineation map and had it surveyed recently.

Frank Ishizaki it's a river, a stream river, and down near hole number four there's a lot of clearing and I'm not sure if you got a clearing permit because I do worry about erosion. I've got friends who are concerned about the coral reef and that erosion will eventually make it down to the ocean. I'm not trying to make trouble, but I think you have an environmental concern. You've got basic infrastructure concerns, and I'm just voicing that from my point of view and I thank you all for being responsible, service of the people to guard and make sure we develop intelligently and legally. So, thank you very much.

Commissioner Oh I have a quick question. I know you mentioned about wastewater; what kind of wastewater issues are you talking about?

Frank Ishizaki well, we all depend on septic tanks and there's no sewer and Victor Cruz is very astute to that and I know that the lines go up to Baza Gardens and the treatment plant is near Sirenadat (sp?). That goes out to the ocean for wastewater treatment. But the rest of us live on septic tanks and every few years you gotta bring in somebody to pump it out. And I think we have to worry about environment eventually because all of that wastewater is going somewhere; hopefully, we're not drinking it.

Vice Chairman Cruz where do you live around here. (Mr. Ishizaki gives instructions to his home) And your road is bad.

Frank Ishizaki the road is bad ... I'm sure with the development you can redo the road and stuff, but I think the road is skinny and inadequate.

Chairman Arroyo thanks Frank, is that it?

Frank Ishizaki my request as a citizen is can you table this and give us all a chance to review all the proposals and give you a chance to review the master plan; so my request. Thank you very much.

Chairman Arroyo anybody else? [None noted Chairman Arroyo closed the public comment period.]

Richard, if you and Mr. Su want come back up ---

Chairman Arroyo is there anything more you would like to add?

David Su the issue of wastewater and sewer we were told by EPA and GWA that they're going to increase or upgrade the sewer treatment at Agat. So, we're not trying to build the 200 units right now, we're trying to do twelve. And the reason why we're coming here because we're trying to find the missing master plan. So, we're not reapplying for PUD. We're here as citizen to comply with regulations and on the master plan (undecipherable) we saw on that the reason (undecipherable) that's the only area that was left open...any future development. We took that from our old files and we come up with the housing plan and from the previous exhibit we show, it pretty much mirrored that area is for the R-2 okay. So, we're not reinventing the master plan. That duplex is very in line with the original intent and we're not applying for a shopping center. Even in the write-up in the 1972 Notice of Action it says for R-2 designation and we are building duplexes. So, it is in line with that also. We want to complete the document by submitting the master plan, but that's in a later phase. First of all, we have no plan to build that right now. In fact that plan that we presented was that think is 96 years old (?). But the economy at the time does not permit to put it. But right now with hopefully the military buildup ... hopefully the military from Navy Base will come and rent from here that's why we're trying to build something. We work so hard ... in fact, I've hired Richard's company over one year ago we spent about 19 months just digging through the records okay. And we cannot use the master plan, the typhoon blew it away from the records. But then the burden suddenly comes on us. From 1972, now we are the fourth owner right now okay. So, we are not doing anything drastically different okay. The 18th hole golf course definitely we want to improve the roadway okay, but if you compare our golf course with CCP which is another 18-hole or Talofofo they're traffic is much much more than our traffic right now okay. If you compare housing, Paradise Estates which was recently built is very successful is over 1400 units. But, I do not see the driveway to Paradise to be (undecipherable). We are a businessman, we are not military, I'm not going build something and

put my people there alright, it's free will okay. And right now, even the 12 units we hope it can be build. But for 200 units in the next one year? I don't think so. And if the business is not there, the water is not there, the sewer is not there, we're not going to build it. I think ... we're not trying to ... we're not at the stage to ask for building permit right now. If we ask for building permit then we also need to have blessing from GPA, GWA and also EPA. But, right now we just want to find out how we can do okay. And there was a question last year about whether it was a PUD with DLM's help; yes it was confirmed, and it was a big relief for my partners. And right now to try to go forward and they couldn't find the master plan. So, from all the testimony today....really no objection for this project. Even the project proposed....it's almost similar I just saw for first time today. And the concern right now from Mr. Ishizaki is power and sewer and the road. And the road of course, we build a new development we want to improve the road of course okay. And the water and power if GPA think that there's not enough power they will not approve the building permit okay. I'm not asking the Commission right now to approve the water. I'm just trying to seek guidance to confirm that yes the R-2 duplex is in line with what was intended for the project, and that's how I thought would be a good compromise that we will build twelve units which will not be a big impact to the infrastructure. But at the sametime, give us time a year of time we come up with ... more surveying and then come to back a year later for the master plan.

Commissioner Oh I mean, you did mention earlier that you were planning on submitting a master plan after the fact right?

David Su right.

Commissioner Oh what's holding up, I mean, what's pushing...I'm trying to understand what exactly is pushing you to come up, I mean, if your intentions are to come up with a master plan anyways we're saying can you come up with it now. Is there a time element here? Is there....

David Su I do not know. I don't what's the requirement to resubmit a master plan; is it one year, or if we have something can we come to the next meeting. If we can just submit it in two weeks we can do that that's not a problem. But, it might not be as detailed. I mean I've never seen a master plan. What kind of information that it has to be in the master plan.

Richard Sana well, it's changed since the 1972 process of PUD, and now it's called PDD (Planned Development District) are more detailed plans required to be to support the planned development that you're proposing.

Commissioner Oh it seems like maybe your architect is here. Maybe if he could shed the light on what a master plan might actually be like.

Michael Borja while he's coming up, you know, the conceptual plan that we uncovered and the comments that Mr. Peterson had made included the fact that there was going to be a hotel.

Let's say all conditions are favorable in every aspect, how high do you think this hotel should be?

David Su six, I mean I don't think they will build a high rise over there. When this (undecipherable) comes to build a high rise it will be a three, four-storey building. When the land is not expensive, might go up and then we could go wide. I believe Mr. Makio calculated density even with entire 220, this is way below with three percent, two percent. We call this golf course amenities. I've spoken to a few of the residents on the golf course. They were so worried that we might shut down the golf course and build on it. But, I said no not even concerned, but I will not build a beach house on a beach and close the beach.

Michael Borja but are you aware that through citizen groups there are bills on the floor at the Legislature waiting to be voted on that will put a moratorium on this development. Anything in the villages that is considered the south, and Yona is one of those villages. I really advise you to look at that. I can't give you the bill number, but it's one of the most recent bills. It already had its public hearing and there's current public hearings; actually, there's going to be village road show public hearings and that is one of the bills to be discussed. I'm just letting you know for information because there's a lot of this stuff that's saying stop doing this kind of stuff.

David Su we do not plan to build hotels.

Michael Borja it doesn't matter if it's a hotel.

Mike Makio the current moratorium is across the board; anything that's not a residence.

Vice Chairman Cruz let me ask I have a question. You have this in phases, but yet when you go to this and Mr. Peterson standing up saying and defending this 1972 master plan, within all of this you don't have the hotel why.

David Su I do not think a hotel will make money or is feasible.

Commissioner Bathan it's on the master plan.

Vice Chairman Cruz no, no but I'm asking. It is on the master plan that's why ---

Chairman Arroyo well, if this is a master plan this is a plan that is ----

Richard Sana he's never seen that until today.

David Su I've never seen that.

Vice Chairman Cruz so, can you come up with...give us a master plan. How soon can you give us a master plan with what you got? The something that you got like this.

Richard Sana to complete the layout that you did with the ... maybe showing some of the

Mike Makio typically for a master plan, in particular for a PUD because you've got all the different elements that need to be represented we'd have to take a little of time to make sure that all of them are adequately shown and all the impacts associated with that. I mean for myself when I go to a master plan I'm trying to think about the whole thing through. Getting to the topic that the Director brought up a moment ago, to me the best defense is a good master plan. If you set it up well and show what the benefits are to the community, show where the challenges are and how you plan to mitigate those challenges. And then you have to address a lot of these subject issues like the view corridors that is the big issue with the development in Pago Bay. Those things would all need to be reflected. I mean, we're fairly quick. It's probably something that is achievable in sixty to ninety days. We'd probably need to get some feedback from specific engineers; traffic folks, civil engineers regarding storm water, wastewater, those kinds of things. And there have been those kinds of discussion going that led up to this, it just hasn't all been consolidated into one final package. So to answer your question, it's not an overly long process I would say sixty to ninety days to get a good product going that would explain those things. I would say this because we've contemplated that topic, and I think what you're saying is if the initial PUD accommodated the topic of a hotel maybe it's worth considering that and looking at it a little bit more holistically like if we're talking about a hotel, what are the parameters for a hotel. And what I would say is that probably the most well known example of a golf course/hotel that we are all dealing with is Leo Palace, and people are very comfortable with that scale and that size. Essentially, because it is covered by a lot of or surrounded by a lot of property and they took the time to plan out all the amenities for that property it works. So, people don't say okay you're blocking ... I have to beg your indulgence for a moment. I personally am very cautious about the idea of other peoples' right to view corridors. It's a polite thing that we do in a civilized community, but I don't see it as a law. You own the view to the end of your property that's what you own. If you want the view to the ocean, you've got to buy all the property between you and the ocean. Okay, I'll stop now.

But what I am getting at is this, proper planning and you discuss all the pros and cons community wise, social benefits, what the networks brings to the rest of the community it can affect everything; education, recreation, normal mom and pop stores how they can be factored in, all of that stuff can be rolled together. That's the way the master plan process is supposed to work. Now in particular with the PUD because they are multiple components that make up the PUD, absolutely all of them need to be reflected properly.

Chairman Arroyo I think that's where we are at Richard. I don't know, I mean if anybody, well it's already been said that nobody is comfortable with moving forward and approving even the twelve units without having some kind of plan in front of them that shows a cohesive neighborhood. And Mike said that's probably an exercise sixty to ninety days out. If you guys can live with that then we can continue the hearing of this application until you come back with something you want to present us with and then move forward from there.

Richard Sana I would just defer this to Mr. Su.

Chairman Arroyo I think too that in (and Kristan you can correct me) with the bill on the moratorium, I think it only pertains to projects that have not already been approved. So

Michael Borja no oh yes, right.

Chairman Arroyo for projects that have not already been approved. So that would include, I would assume yours because this is an approved PUD. So, unless the bill changes to include properties or to include properties that were already approved ---

Michael Borja but the bill hasn't been passed so you don't know what the outcome is.

Chairman Arroyo right, you don't know how it's going to end up. But anyway, that's the way I've read it. So at this point in time it doesn't appear, if the bill doesn't change, that the moratorium would affect what you guys want to do moving forward.

David Su I have question...(undecipherable) so everybody's comfortable we want to be transparent to let you know how we are moving forward. My question is, we'll work with Mr. Makio's firm to come up with a PUD, I'm sorry a master plan. But, I'd like to know should we come back to the GLUC as a new PUD application or ----

Chairman Arroyo no, because you already have an approved PUD.

David Su so next meeting if I can come up with the master plan then we can continue and we don't have to go through the ARC and all that.

Chairman Arroyo like I said, you already have an approved PUD. The problem is we don't have anything to base it on. And quite frankly, I don't know if anything was submitted. Probably if you don't have it and it's not in the Land Management records; as you said Richard, it probably just could be a concept and something that was discussed as opposed to having some sort of sheet paper and saying this is what we are going to do.

Richard Sana so my understanding is we submit a master plan for the GLUC's approval and that's all we're

Marvin Aguilar since the public comments involved included, well comments that were made on the condition of existing infrastructure there, I think it's important to also note the extent of expectation from this master plan that it won't be as, perhaps maybe detailed as one would think to otherwise, commit to something like a major road improvement into the subdivision. You have identified on your maps that you have 40-foot wide public easements and what that does with respect to your program, it meets that general requirement. Now how that's going to be improved in the overall is something that perhaps maybe is ... and I don't if these

easements are dedicated or what, but it would require cooperation or inclusion of all stakeholders in the area to include the golf course. But again, it's important to bring up ... to address what are the expectations of this master plan once they submit it.

Richard Sana because there's criteria already in the books that we can, you know, to use as a guide.

Chairman Arroyo and I think if you have Mike doing this he knows this like the back of his hands. And I'm sure whatever he puts together for you will be sufficient for us. Okay, if that's what the Commission is comfortable with we will continue the hearing on this application until a later date when you can comeback with a master plan.

Are there any other items, miscellaneous items ... Kristan?

Kristan Finney (Legal Counsel) just so you know that with the Mayors' case there's a conference scheduled and so we'll see what happens when Highsmith (inaudible due to excess conversation in the room). Where we're at is, I understand that the Planning Staff is putting together the agency record and we will be presenting it to the parties and Court and we're working that out with the parties. Where we're at is the ... real party in interest, the Developer has filed a motion to dismiss the petitioner's complaint. And the basis of their motion is, asked about their time. So, the Law ... if you look at the statute it says an appeal needs to happen within fifteen (15) days, and the way the Law interprets that is fifteen (15) days means fifteen calendar days. But the, and I had thought it was the Notice of Action, but I guess it's actually it is the Findings of Fact that says this is not final until after fifteen working days. And so, the petition was filed within fifteen working days, but not within fifteen calendar days. And so the developer is making an argument that the fifteen days that's in the statute controls (undecipherable) jurisdiction and you can't get around it. The petitioner found it (inaudible due to excess noise) they just filed it last week.

Commissioner Bathan it's for the Save Southern Guam right? But the other two are already...Mayors and the

Kristan Finney they actually have the same problem and some other procedural issues, but we haven't had any hearings on that. So, that's basically where we're at. And the other thing is that the petitioners did request for a default judgment, and I did point out to the Judge that under the Rules of Civil Procedure you cannot have a default judgment against the government without evidence. So, you have to have ... where if it's a private party and you don't defend then you can get a default judgment against that private party just for the fact that they didn't appear and defend. But, that's not the case with the government. And so there was some argument to the Judge about what that means and what kind of evidence has to be looked at and the petitioners said, well we have verified complaints, that's your evidence. And the Judge seemed at first seemed to accept that but then realized as we were moving on with the hearing that they need to look at agency record. And I did point out to the Judge that that's the evidence he should be

looking at to make a decision on the this matter and that he couldn't do it just by the fact that there wasn't a defense presented, and that really the real party in interest is the one that's going to be affected. And the Judge did ask me why isn't the Land Use Commission defending this, and so I told the Judge that this really is a matter that doesn't have any reach or effect beyond, just affecting that particular applicant. There's no rule being challenged, there's no statutory interpretation issue; there's nothing like that that will affect the Commission beyond just that particular applicant. If the petitioners win then the application is denied. But, there's no real effect on the Commission. So, anyway that's where we're at.

Chairman Arroyo thank you for the update. Is there anything else that we need to discuss before we adjourn?

Marvin Aguilar there won't be another meeting in September only because there will be no quorum, and so the next available will be sometime in October.

Kristan Finney the next hearing by the way is October 7th.

VI. Adjournment

Vice Chairman Cruz motion to adjourn.


Commissioner Bathan second.

Chairman Arroyo motion to adjourn made by Vice Chair Cruz, seconded by Commissioner Bathan; with all in favor.

The regular meeting of the Guam Land Use Commissioner for Thursday, September 8, 2016 adjourned at 4:26 p.m.

Approved by:

Transcribed by:



John Z. Arroyo, Chairman
Guam Land Use Commission



M. Cristina Gutierrez, Pro Tem
DLM, Planning Division

Date approved: _____

10/13/16



GUAM LAND USE COMMISSION

Chairman John Z. Arroyo
Vice Chairman Victor F. Cruz

Commissioner Conchita D. Bathen
Commissioner Tae S. Oh

Michael J.B. Borja, Executive Secretary
Kristan Finney, Assistant Attorney General

AGENDA

Regular Meeting

Thursday, September 8, 2016 @ 1:30 p.m.

Department of Land Management Conference Room

590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

[As published in the Guam Daily Post on September 1st and September 6th, 2016]

- I. Notation of Attendance [] Quorum [] No Quorum
- II. Approval of Minutes
 - GLUC Regular Meetings of Thursday, July 28, 2016 & August 11, 2016
- III. Old or Unfinished Business [None]
- IV. New Business [None]
- V. Administrative and Miscellaneous Matters
 - A. The Applicant, BME & Sons Inc.; request to renew a previously approved Conditional Use permit to continue operations of its Temporary Workforce Housing Facility, Lot 5223-R9-3, in the Municipality of Barrigada, in an "M-1" (Light Industrial) zone, under Application No. 1997-23D.
Case Planner: Penmer Gulac
 - B. The Applicant, Chang Ki Bang and Otilia F. Bang; request to renew a previously approved Conditional Use permit for the continued operation of a mom and pop retail store located on the first floor of an existing two-storey duplex, and 2nd floor used as the applicants' residence, Lot 3-4, Tract 1033, in an "A" (Rural) zone, in the Municipality of Dededo, under Application No. 2010-15D.
Case Planner: Penmer Gulac
 - C. The Applicant, Wonderful Resorts LLC (dba: Wonderful Windward Hills Resort); requests clarification and approval on multi-family use within a previously approved Planned Unit Development (PUD) for the purpose of constructing 200 townhomes Lot 154-2, -3 & -4, in the Municipality of Yona.
Case Planner: Marvin Aguilar
- VI. Adjournment

ATTACHMENT A



EDDIE B. CALVO
Governor

RAY TENORIO
Lieutenant Governor

DIPATTAMENTON MINANEHAN TANO'
(Department of Land Management)
GUBETNAMENTON GUAHAN
(Government of Guahan)



MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

Street Address:

390 S. Marine Corps Drive
Suite 733 ITC Building
Tamuning, GU 96913

Mailing Address:

P.O. Box 2950
Hagåtña, GU 96932

Website:

<http://land.guam.gov>

E-mail Address:

dlmdir@land.guam.gov

Telephone:

671-649-LAND (5263)

Facsimile:

671-649-5383

August 29, 2016

MEMORANDUM

TO: Guam Land Use Commission (GLUC) Members

FROM: Guam Chief Planner

SUBJECT: Supplemental Staff Report – Annual Reporting for Temporary Workers Housing Facility (THWF) ; Conditional Use Permit – For BME & Sons , Inc.

Re: Application No. 1997-23D; GLUC Meeting: September 8, 2016

1. PURPOSE:

- A. Application Summary: BME & Sons, Inc. request for review and annual reporting for the continued operation of their Housing Facility for Temporary Workers (HFTW) in an "M-1" (Light-Industrial) Zone, Lot 5223-R9-3, Municipality of Barrigada.
- B. Legal Authority: Title 21 GCA, Chapter 61 Conditional Uses Regulations, Section 61303 and pertinent regulations; of the Zoning Law; Section 61309 (c) and Public Law 31-07 (Policy for Work Force Housing), and GLUC Resolution No. 2009-01 applicable to Temporary workers Housing Facilities.

2. FACTS:

- A. Location: The subject lot is located approximately 500 feet east off Route No. 16 in Barrigada and abutting the Perez Brothers Quarry (See attached VIC map).
- B. Lot Area Size: The total area size is 4,934 square meters or 53,109.15 square feet; approximately 1.219 acre.
- C. Present Zoning: "M-1" (Light-Industrial) Zone
- D. Masterplan: Residential – Low Density

E: Previous Commission Action(s):

1. On June 25, 2015, the applicants, BME & Sons, Inc., was granted approval by the Guam Land Use Commission for a Conditional Use Permit for Temporary Workers (HFTW) without term and renew and reporting annually from date of recordation of Notice of Action dated September 25, 2015 in order to continue operating a Temporary Workers Housing Facility on the above subject lot with condition that applicants meet the conditions imposed by the Commission and comply with Application Review Committee conditions;

Page 2,
Supplemental Staff Report;
August 29, 2016

Ref: Annual Renewal and Reporting of TWHF
Lot 5223-R9-3, Municipality of Barrigada.
Ref: Application No. 1997-23D (BME & Sons, Inc.)

3. DISCUSSION:

On August 17, 2016, BME& Sons, Inc., submitted a letter of request for annual review/reporting of their Temporary Workers Housing Facility as required by Notice of Action dated September 25, 2015; and reporting that they have complied with all ARC conditions and have further maintained good standing in the community, no complaints/problems or negative impacts of their operations, and have been pro-active in the community civic action projects and village mayor's projects as well as a good neighbor in the immediate area.

On August 16, 2016; Planning Staff conducted a site inspection and found to be in compliance with all conditions of the commission approval and all previous commission approval's and conditions; the barracks, site area and yard is well maintained. The property is fenced for security purposes, the company activities observed on site to be routine, support operations of a Temporary Workers Housing Facility with recreational activities for personnel on site. No significant impacts of on-going activities in the immediate area observed or noted during inspection.

On June 16, 2016, Mangilao Mayor and Municipal Planning Council (MPC) submitted a letter of support for BME renewal and the Barrigada Mayor submitted a letter of support for BME dated June 22, 2016 citing that they have not received any complaints from neighbors on their operations and that the company has been a good neighbor and hires local residents and temporary foreign workers. Mangilao Mayor Nito Blas further stated that the company has contributed to the betterment of the island community. That the site/subject property as an acceptable entity within the surrounding community.

RECOMMENDATION: Having complied with previously approved Conditional Use Permit conditions imposed by the Guam Land Use Commission, in the operation of a Temporary Workers Housing Facility, Planning staff recommends approval of the applicants request for renewal and continuation for the operation of a Temporary Workers Housing Facility and further reporting annually on their status to the Guam Chief Planner, with all Commission, ARC, Workforce Housing applicable conditions, and GLUC Resolution No. 2009-01 is still applicable and in force.



MARVIN Q. AGUILAR
Guam Chief Planner

Attachment: Letter from BME & Sons, MPC Letter & Mayor's Letter of Support,
Project listings, NOA's and supporting documents
Case Planner: Penmer C. Gulac, Planner IV

BARRIGADA

Office of the Mayor & Vice Mayor
124 Luayao Lane, Barrigada, Guam 96913

June 22, 2016

Mr. John Arroyo,
Chairman, Guam Land Use Commission
Department of Land Management
Tamuning, Guam 96931

Rec'd
P. Gutierrez
6/27/16
D.C.

Re: Support for BME & Sons Annual Reporting of their Contractor's Yard; Lot 10, Tract 239
Municipality of Mangilao, GLUC Application 2002-30C

Dear Mr. Chairman:

Buenas yan Hafu Adai! This is to inform you that Vice Mayor Jessie P. Bautista and I, together with the Barrigada Municipal Planning Council support the request for Annual Renewal of Conditional Use Permit to Operate Facility for Temporary Workers (HFTW) on Lot No. 5223-R9-3, Municipality of Barrigada, Guam for BME & Sons, Ref GLUC #1997-23B and Continuing Operations of a Contractor's yard on Lot 10, Tract 293 Mangilao.

Once again, our support demonstrates the Municipal Planning Council's agreement with the proposed use of the property by the current landowner, BME & Sons, Inc. The renewal request will once again contribute to the development of our community as well as contribute to the social benefit of our residents including those in the surrounding boundary area.

More importantly, the Barrigada Municipal Planning Council exercising its rights and privileges to review all conditional land use requests involving real property within the its boundaries, does hereby support and endorse the request.

Thank you and on behalf of BME and Sons, Inc., we look forward to the Commission's endorsement of their renewal request.

Sincerely,


JUNE U. BLAS
Mayor


JESSIE P. BAUTISTA
Vice Mayor

cc: BME & Sons, Inc.
P.O. Box 24402, GMF
Barrigada, Guam 96913



Office of the Mayor
MUNICIPALITY OF MANGILAO

Nonito 'Nito' C. Blas
Mayor

Allan 'Al' R.G. Ungacta
Vice Mayor

Date: June 13, 2016

Chairman and Members
Guam Land Use Commission
Department of Land Management
Tamuning, Guam 96931

RECEIVED

JUN 16 2016

Department of Land Management
Time *[Signature]*

Subject: Request for Support for Annual Reporting of our Contractor's Yard;
Lot 10, Tract 293 Municipality of Mangilao, Guam for BME & Sons, Inc.;
Ref GLUC Application #2002-30C (Zone Variance)

Dear Mr. Chairman:

Buenas yan Hafa Adai! This is to inform you that Mayor Nonito Blas and Vice Mayor Allan Ungacta, together with the Mangilao Municipal Planning Council support the request for Annual Renewal of Conditional Use Permit to Operate Facility for Temporary Workers (HFTW) on Lot No. 5223-R9-3, Municipality of Barrigada, Guam for BME & Sons, Ref GLUC #1997-23B, and Continuing Operations of a Contractor's yard on Lot 10, Tract 293 Mangilao.

Once again, our support demonstrates the Municipal Planning Council's agreement with the proposed use of the property by the current landowner, BME & Sons, Inc. The renewal request will contribute to the community as well as be of social benefit to all of the residents in the surrounding area

[Signature]
Nonito C. Blas,

Mayor

Cc: BME & Sons

[Handwritten initials]



BME & SONS INC.

GENERAL CONTRACTOR & EQUIPMENT RENTAL

P.O. Box 24402, GMF, Barrigada, Guam 96921 * Tel: (671) 632-3338 * 637-5498 * Fax: (671) 632-3334
E-mail: bvm@bmesons.com

September 8, 2016

Mr. John Z. Arroyo, Chairman & Commissioners, Guam Land Use Commission (GLUC);
c/o Mr. Michael JB Borja, Director of Land Management; Executive Secretary, Guam Land Use
Commission (GLUC)

Subject: Request for Annual Renewal of Conditional Use Permit to operate a Housing Facility for
Temporary Workers (HFTW); Lot 5223-R9-3, Municipality of Barrigada, Guam for BME & Sons, Inc.;
Ref: GLUC Application #1997-23C

9/8/16
RECEIVED
Planning Div
1:20pm

Hafa Adai,

We are requesting for annual renewal of our Conditional Use Permit to operate our Housing Facility for
Temporary Workers (HFTW) on Lot 5223-R9-3, Municipality of Barrigada, in an "M-1" (Light Industrial)
Zone, per Notice of Action by the Guam Land Use Commission's approval on June 25, 2015, and
Pursuant to GLUC Resolution 2009-01 we must renew annually before the commission

Further, we request consideration that the next annual reporting will be to the Guam Chief Planner,
with applicable conditions still in effect in the operations of our HFTW.

We have attached additional information on the status of our H2 workers currently residing in the
barracks, status of their expiration of contract and expected departure as well as requests for additional
importation and extensions of workers and we continue to inform on changes of workers status to
Department of Labor, GOVGUAM.

Again, we have ensured that annual renewal is made timely and operations are in accordance to HFTW
guidelines.

We hope for your usual kind attention of this request and for your favorable consideration.

Very truly yours,


Bernie V. Maranan
President

Attachments: As noted

Cc: Chief Planner, Land Planning Division



BME & SONS INC.

GENERAL CONTRACTOR & EQUIPMENT RENTAL

P.O. Box 24402, GMF, Barrigada, Guam 96921 * Tel: (671) 632-3338 * 637-5498 * Fax: (671) 632-3334
E-mail: bvm@bmesons.com

STATUS OF WORKERS RESIDING IN THE BARRACKS:

TOTAL H2B WORKERS LIVING IN THE BARRACKS-116

H2B WORKERS EXPECTED TO LEAVE-43

TOTAL IMPORTATION-60

H2B EXTENSION-73

ATTACHMENT B



DIPATTAMENTON MINANEHAN TANO'
(Department of Land Management)
GUBETNAMENTON GUAHAN
(Government of Guam)



Street Address:

90 S. Marine Corps Drive
Suite 733 ITC Building
Tamuning, GU 96913

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

August 29, 2016

MEMORANDUM

TO: Chairman and Commissioners, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Supplemental Staff Report – Request renewal of existing operation of a retail activity “Mom” and “Pop” store under previously approved Conditional Use Permit, Re: Application No. 2010-15D; (Lot 3-4, Tract 1033, Dededo); GLUC Meeting of September 8, 2016

1. PURPOSE:

a. **Application Summary:** The Applicants, Chang Ki Bang and Otilia F. Bang, are requesting renewal of a Conditional Use Permit to continue and operate a commercial activity as a “Mom” and “Pop” retail store in an “A” (Agricultural) Zone, situated on Lot 3-4, Tract 1033, Municipality of Dededo,

b. **Legal Authority:** 21 GCA (Real Property), Chapter 61 (Zoning Law), Sections 61303 and 61304 (b) Conditional Uses, (9) Wholesale, retail stores, shops and businesses.

2. FACTS:

a. **Location:** The lot is located along Kayen Chando (a 50-foot right-of-way) that connects to Chalan Bumachacho. The site is approximately 1,800 feet east of the Dededo Municipal Golf Course and approximately 500 feet west of Paradise Estates in Dededo (See Attached Vicinity Map)

b. **Lot Area:** 1,870 square meters or 20,128 square feet

c. **Present Zoning :** “A” (Agricultural) Zone

d. **Masterplan:** Residential – Low Density

Mailing Address:

P.O. Box 2950
Hagåtña, GU 96932

Website:

<http://land.guam.gov>

E-mail Address:

llmdir@land.guam.gov

Telephone:

671-649-LAND (5263)

Facsimile:

671-649-5383

e. Previous Commission Actions(s):

1. On August 14, 2014, the applicants, Chang Ki Bang and Otilia F. Bang, were granted approval for renewal by the Guam Land Use Commission (GLUC) for a Conditional Use Permit for an existing 2-storey residence into a 2,652 square foot “ Mom “ and “Pop” retail store activity on the above subject lot (see attached NOA). The approval was with the conditions that the applicants meet the conditions imposed by the Commission and comply with Application Review Committee conditions and requirements. The improvements into a retail activity was completed and issued an Occupancy Permit by Department of Public Works on June 29, 2011. At the present time, the existing store operates a total floor area of 2,652 square feet that was approved by the commission to be a retail activity on the 1st floor on June 12, 2012 meeting.

(Note: The approval was subject to a renewal time within 2-years from date of recordation of approved Notice of Action; (Expiration of NOA is September 2, 2016); During the period, and verified by staff inspection, the applicants/operators have been complying to all ARC conditions and Revenue and Taxation, Department of Public Health & Social Services , Alcohol and Beverage Control Board (ABC) and continues have good standing in the community of Dededo;

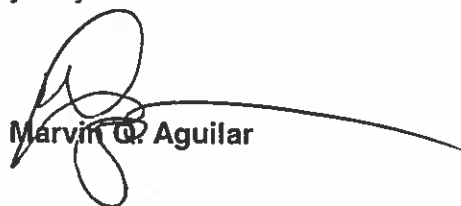
2. On August 16, 2016, The Dededo Municipal Planning Council has been advised of the intention for renewal with copies of all reports and supporting documents. The Mayor of Dededo has advised DLM Planning that an MPC Resolution will be transmitted on or before the GLUC meeting on September 8, 2016.


DISCUSSION:

The continued existence of the of the retail “ Mom” and “Pop” store appears to be acceptable to the surrounding community in that we have not received any complaints from them. In support of this activity, the Dededo Mayor and Municipal Planning Council has advised Planning Staff that an MPC Resolution, will be transmitted to the commission meeting on September 8, 2016. the general welfare of the community and also by providing employment for residents; The applicants have been continuing in maintaining and keeping the premises clean and in and have been good business partners in assisting and supporting on special events for the Dededo community. Per inspection of the premises and meeting with the applicants, they have met with Mayor Savares and that the mayor has stated that Mr. and Mrs. Bang's business has fully been supporting the Dededo community in recent years and further stated that the applicants' existing activity has no negative impact with surrounding neighbors and the community as a whole.

RE: Continuation of Supplemental Staff Report Re: Request for Renewal – Application No.
2010-15D; GLUC Meeting of September 8, 2016
Page 3 of 3

3. RECOMMENDATION: It is our recommendation that the Conditional Use Permit be allowed to continue. Based on the applicants letter and having complied to all GLUC NOA and ARC conditions, and contributing to the community, we further recommend the conditional use be made permanent (without any time constraints on the conditional use permit) and reporting on a yearly basis to the Guam Chief Planner


Marvin Q. Aguilar

 Case Planner: Penmer C. Gulac, Planner IV
Attachments: Letter of Request for Renewal & Supporting Documents
Case No. 2010-15D; NOA's as noted

September 8, 2016

To: Mr. Chairman and Commissioners, GLUC
Mr. Marvin Q. Aguilar, Guam Chief Planner
c/o Department of Land Management
Attention: Land Planning Division

*Rec'd
9/8/16
P. Aguilar
Land Planning*
RECEIVED

Subject: Request for Consideration for Renewal GLUC
No. 2010-15D; for Lot 3-4, Tract 1033 , Dededo

Hafa Adai :

We, the owners are submitting this letter to our intentions for continuation of our " Mom and Pop" store on our property. We have submitted our reports to your planning staff regarding our operations are satisfactory and we are really serious of serving our neighbors for many more years to come.

We respectfully request your approval to continue our business.

THANK YOU. SI YUUS MA ASE.



CHANG KI BANG and OTILIA FINONA BANG (OWNERS)



EDDIE BAZA CALVO
Governor of Guam

RAY TENORIO
Lieutenant Governor of Guam

DIPATTAMENTON MINANEHAN TANO'
(Department of Land Management)
GUBETNAMENTON GUAHAN
(Government of Guam)



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SEPTEMBER 8, 2016

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

RE: **Staff Report**
Assessment of Proposed Multi-Family Development in a
Previously-Approved Planned District Development (PUD)
(154-2-4-REM-NEW-2-REM in the municipality of Yona)

1. **PURPOSE:**

- A. **APPLICATION SUMMARY.** The Applicant, Kevin Chien, dba Wonderful Resorts, LLC request
- B. **LEGAL AUTHORITY.** Title 21 Guam Code Annotated, Chapter 61, Zoning Law, §§61103 and 61635.

2. **FACTS:**

- A. **Location.** Subject lot is located in the municipality of Yona in an area better known as the Windward Hills Country Club.
- B. **Present Zoning.** Subject property is currently zoned "PUD" or "PDD", a Planned District Development per Territorial Planning Commission action on June 22, 1972.

3. **APPLICATION CHRONOLOGICAL FACTS:**

- A. **Previous Commission Actions.** See 2A.
- B. **Date Heard by ARC.** N/A.
- C. **Public Hearing and Results.** N/A.

4. **DISCUSSION:** In the months of June and July of 2016, representatives of Wonderful Resort, LLC requested guidance by Planning Division on securing a building permit for the construction of six (6) townhomes for a total of twelve (12) multi-family residential units on the subject lot. Planning Division noted some complexity to the request since development was to occur in property zoned "PUD", yet guidance through a master plan was not available, a matter to be discussed at a later part of this report. The challenges to the request revolved around having a firm understanding of:
- a. At the minimum, have available any schematic master plan to guide the original intent of the PUD;
 - b. The roles and responsibilities of existing uses with respect to homeowner associations, agreements, if any (i.e. golf course and existing single-family subdivision); and
 - c. How the new development scheme would affect current uses and particularly that of on existing infrastructure (traffic, water, power, and waste disposal).

Representatives responded with the following:

- a. With respect to a master plan, on June 22, 1972, then-Territorial Planning Commission approved a change of zone from "A" to "PUD" on Lots 154-2, 154-3, and 154-4. This approval was subject to what appears to be a sole condition requiring then-Developer, *Windward Hills Golf & Country Club* to assess density for "R-2" uses through and with the concurrence of the Territorial Chief Planner pursuant to Title 21 Guam Code Annotated, Chapter 61, the Zoning Law, Article 2, section 61501¹. Discovery of information recorded or otherwise, was limited to this condition without further direction or guidance on how to apply the different uses allowed under the "PUD" zone designation. Lots 154-2, -3, and -4 have since been subjected to land consolidation and re-subdivision and now exists in its current subdivided configuration that identifies current residential interests and that of the existing golf course. Thus, in lieu of a clearly understood master plan we may surmise existing land uses in and around the golf course are a reflection of what was originally approved a variety of allowable uses during deliberation and leading to the act of re-zoning said properties. And if this was case, then allowable uses within the "PUD" included:
 - i. The golf course and single-family dwelling, by virtue of their existence today;
 - ii. Multi-family dwelling, by virtue of the then-TPC's direction to assess "R-2" densities as provided in summary minutes (See Exhibit B); and
 - iii. An airstrip for small aircrafts (apparently a land use abandoned in the mid-1980's).

Elements of a Planned Development District as provided in 21GCA, Section 616135, typically alludes to committed development scheme based on a master plan. Through research planning staff has yet to discover a master plan, schematic in detail as one may perceive and clearly labelled to be associated to the approved PDD.

¹ As "R-2" or multi-family uses are permitted, the density requirement allowable per unit is 116 square meters

- b. With respect to roles and responsibilities of existing uses, the applicant insists that all uses have been separated in interest to certain groups of ownership, with the golf course and property it is contained within belonging to one entity separated from existing housing subdivisions. Association of each use would most likely be associated or linked through interdependency of infrastructure (i.e. easements, water, power, etc.). Property ownership of the entire PDD program has since evolved to indicate separate ownership between the golf course proper and individual residential lots located adjacent to or within the golf course, and thus is essentially a separate entity having no obligatory relationship to any current any homeowner's association other than within a particular existing home subdivision cluster.
- c. With respect to how the new development scheme would affect current uses, the applicant insist that although a grand scheme reflects 200 townhomes, the main focus of development would be restricted to the initial first phase of a single cluster of six townhomes or 12 individual residential units, hence, the initial intent to secure a building permit.

On August 11, 2016 the Commission engaged in general discussion regarding the former Takayama Golf Resort, now Wonderful Resorts, LLC and the company's intent to construct a first phase 12-unit townhome development within its property as described above. The request for discussion was brought forth to the GLUC by the Planning Division for the purpose of providing a summation of matters at hand and to request further guidance.

All pertinent information regarding the rezoning of Lots 154-2-, 154-3 and 154-4 in the municipality of Yona from "A" (Rural-Agricultural) to "PUD" or a Planned Unit Development is critically limited to an amended zoning map (Exhibit A) and summarized minutes of the 1972 meeting (Exhibit B). The Commission's directive, without formal action, insisted the developer provide a broader explanation of project *scope of intent and work* with discussion on caveats, as noted thus far.

GLUC's ROLE

As provided earlier, multi-family development is one of the various uses permitted within the approve PUD thus, the proposed twelve or even ultimate 200 townhomes as proposed is consistent with the Territorial Planning Commission's 1972 intent.

However, if such approved uses are permitted, then one may inquire as to the role the Commission plays in assessing the request to precede with the proposed "R-2" development. In our opinion, the answer lies in the fact that it is not a matter of whether or not an opportunity exists for the Guam Land Use Commission to administratively assess the use, but rather to ensure that regardless of any prior approval, such use will not have an impact on the surrounding community. This is more so relevant with respect to the Commission's mandate to insure that "minimum regulations for the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam, which regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population²".

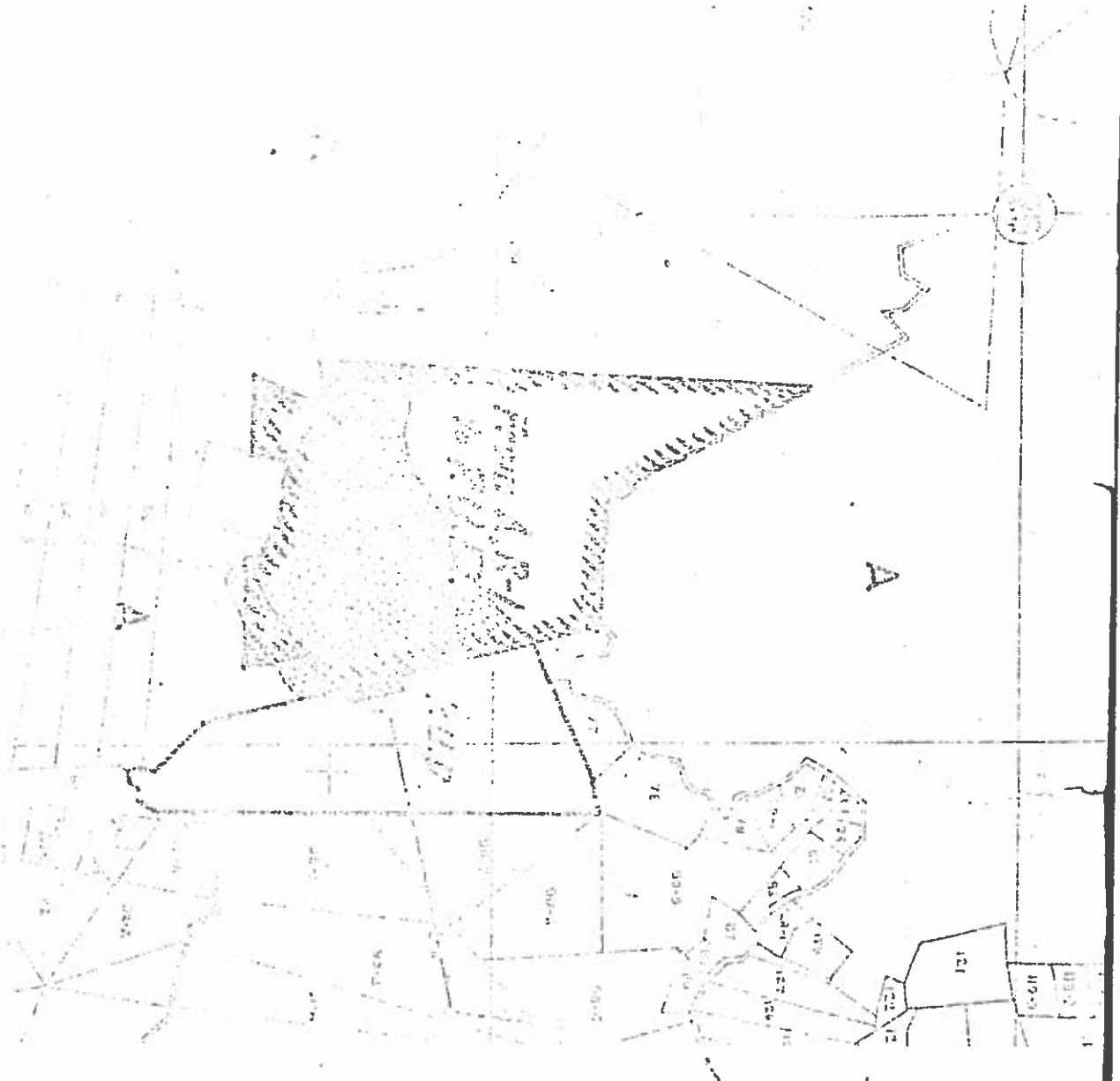
In this respect, at the very minimum, the Commission maintains the authority to reiterate requirements of development, particularly with regards to insure elements of the PUD remain aligned with current development regulations and likewise do not adversely affect the community surrounding the project site, and ensure necessary components to further the proposed development does not overburden community needs on water, power, and public sewer.

5. **CONCLUSION:** Planning Division is of the opinion that the proposed development scheme of "R-2" Multi-Family uses is permitted per the 1972 "PUD" zone change and is applicable to the subject lot. However, we remain cognizant and attentive to the Commission's concerns as noted in this report. And by all means of procedural or administrative process the Commission's concerns must be adhered to. In the event the Commission should elect to accept Planning's findings and proceed forward with any approval, such action should be conditional and at the minimum, include, but not be limited to, the following conditions:

- a. That, no attempt be made to secure any building permit until the developer can secure government agencies' certification of the availability of adequate infrastructure to support Phase I without compromising full use and enjoyment of infrastructure by the surrounding residential community;
- b. That, in keeping with spirit of the original intent and approval of the PDD, the Territorial Chief Planner, through the assistance of the developer, shall provide a written report on density calculations and to provide a determination on the status of density resulting from the development project for both Phase I and II. ^{6 2 2 4} And that such information shall be used for further assessment and consideration by the GLUC; That,
- c. That, in keeping with spirit of the original intent and approval of the PDD, the developer shall provide the GLUC with a schematic master plan and associated information on design and infrastructure use;
- d. The developer shall provide for the Guam Chief Planner's assessment, proof of the property's severance of any and all obligatory association with surrounding residential community. Such information shall be forwarded to the GLUC, with the Chief Planner's written findings;
- e. Any action shall not be used to establish a precedence or procedure to avoid a standard application for consideration of future expanded development within or around the subject property;
- f. The proposed development scheme shall be in keeping will all other zoning and/or land use requirements pursuant to Title 21 Guam Code Annotated, chapters 61 and 62; and
- g. All information as suggested by the GLUC and/or the Territorial Chief Planner be provided in a collated form for the purpose of ratifying an updated planned development master plan.


Marvin Q. Aguilar

EXHIBIT A



AMENDMENT 3

YONGA

Zoning Map No. 75-67547

Adopted by the Territorial Planning Commission

on June 22, 1972

G. J. R.
Executive Secretary

Approved by the Governor of Guam

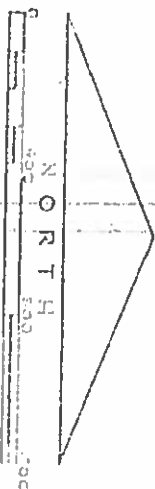
on JUL 28 1972

Carlos G. Garcia
Governor of Guam

Affixed with the Great Seal of Guam

on JUL 28 1972

Leandro J. Lopez
Lt. Governor of Guam



Dept. of Land Management PLANNING DIVISION

114596

EXHIBIT B

Lot 2144-4, Agaña - APPROVED PRELIMINARY PUD

Request zone change from Agriculture to Planned Unit Development (PUD). Staff recommended approval but prior to public hearing. 1.) more specific uses; (2) densities; (3) what kind of Commercial - educational etc. A motion was made by Peterson to approve, seconded by San Nicolas.

Lot 194-2, 3, 4, Yona - APPROVED (FINAL PUD)

Request zone change from Agriculture to Planned Unit Development. Staff recommended approval - but must give densities on R-2 zone; specific conditions for Commercial use. Such densities and uses must be approved by Territorial Planner prior to transmittal to the Governor. Motion for approval was made by Chain and seconded by San Nicolas.

Lot 300 & 329, Merizo - TABLED

Request zone change or review of preliminary Planned Unit Development (PUD). Suggest table until applicant and Engineer see Planning Staff.

Lot 2145-Ram, Tamuning - APPROVED Preliminary PUD

Request zone change for Planned Unit Development. Staff recommended approval for Public hearing. A motion was made by Chain to approve, seconded by Cruz.

ZONE VARIANCES:

Lot 2024-4 thru 10, Blk C, Tamuning - CONDITIONAL APPROVAL

Request permission to construct (5-story) building not to exceed total height of 72 feet; also permission to base parking requirement on net building area less net warehouses area. (width 103) Staff recommended disapproval because of Legislative Resolution and dangerous precedent to establish outside of Agaña and Tumon Bay. Conditions for approval were enumerated by the Commission as:

1. Parking access controlled
2. Verification of lease on parking
3. If 4th and 5th floor is used, additional parking requirements should be provided.

A motion was made by Chain to approve upon above conditions, seconded by Cruz. (Voted yes by all except San Nicolas objected).

Lot 5147-1-1-1, Tamuning - DISAPPROVED

Request variance to erect sign boards to identify Physician Diagnostic Laboratory. Staff recommended disapproval on the basis - no need for sign, well known - consider this in the midst of residential not commercial zone. A motion was made to disapprove by Chain and seconded by San Nicolas.

Lot 242-1-1, Agaña - TABLED

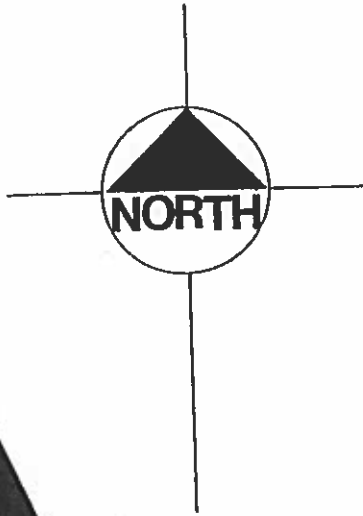
Request variance to establish a professional sound studio and recording Company. --(leased for 15 years--an existing 4-plex apartment on R-2 zone). Staff recommended tabling until parking requirement are determined.

Lot 196-3, Yona - APPROVED









Request permission to use Bottle Type Building. (former convent) for temporary labor camp --until such time that an official project is ready to utilize the area. A motion was made by San Nicolas to approve and seconded by Cruz.

11/15/21

EXHIBIT C



LEGEND :

-  HOTEL/CODMINIUMS
MULTI-FAMILY RESIDENTIAL
-  SINGLE FAMILY RESIDENTIAL
-  TENNIS AND RACQUET CLUB
-  DISCOVER AMERICA PAVILION SITE
-  AIRFIELD
AND LIGHT INDUSTRIAL ZONE
-  GOLF COURSE
-  FRESHWATER LAKE 9.5 ACRES
-  AGRICULTURAL ZONE

